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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,419	12/15/2000	Joshua M. Broehl	2734.0475	8779

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
LLP  
1300 I STREET, NW  
WASHINGTON, DC 20005

EXAMINER

DRUAN, THOMAS J

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 11/18/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/736,419

Applicant(s)

BROEHL, JOSHUA M.

Examiner

Thomas J. Druan, Jr.

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 32-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 32,33 and 35 is/are allowed.
- 6) ☒ Claim(s) 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in response to Applicant's amendment received on 20 August 2003.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 103***

3. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,924,617 to LaCount in view of US 119,235 to McDonald.

LaCount discloses the invention substantially as claimed including a method of dispensing sheet material comprising: providing a dispenser containing first (135) and second (130) sources of sheet material, the dispenser including a first rotatable roller (120) having at least one recessed portion (between segments 121) and a second rotatable roller (105) having at least one raised portion (110), the second roller having a retainer (115); dispensing sheet material from the first source by passing the sheet material between the first and second rollers (fig. 8 & column 6, lines 12-15); retaining, in the retainer on the second roller, an end portion of the sheet material from the second source (column 5, lines 52-62); limiting rotation of the second roller by contacting the raised portion of the second roller against the sheet material between the first and second rollers (column 6, lines 12-15); placing the second roller in contact with the first roller when sheet material from the first source is no longer between the first and second rollers; and rotating the second roller to thereby feed sheet material from the second source onto the first roller to permit dispensing of sheet material from the second source (column 6, lines 53-59). The dispenser includes a third rotatable roller (100) forming a nip with said first roller, and

Art Unit: 3724

wherein the method further includes passing sheet material through the nip (column 6, lines 61-64).

LaCount retains the sheet material from the second source in a circumferential slot and a clip on the second roller instead of a slot passing completely through the second roller. McDonald teaches the use of a slot through a roller to securely retain sheet material. Therefore, it would have been obvious to one skilled in the art to substitute the retainer and circumferential slot of LaCount with the retainer of McDonald for the step of retaining since circumferential slots with a clip and a slot going through the center of a roller are art-recognized equivalents for retaining sheet members in rollers, and the slot of McDonald would include fewer removable parts than that of LaCount, and would therefore be simpler to operate.

#### ***Allowable Subject Matter***

4. Claims 32, 33 & 35 are allowed.

#### ***Response to Arguments***

5. Applicant's arguments filed 20 August 2003 have been fully considered but they are not persuasive. Applicant contends that the roller of McDonald is not analogous to the roller of LaCount and would not be obvious to combine with LaCount, and further that McDonald does not support the contention that a sheet material can be retained in the slot.

Applicant's remarks are well taken; however, it is the Examiner's position that the references make obvious the claimed invention. LaCount discloses a dispenser for sheet material held on two distinct rolls, with a second roll utilized to retain an end of a second

roll of sheet material while the first roll of sheet material is being depleted. LaCount uses a recess in which an end of the sheet material from the second source is held, with a clip to retain the sheet material in the recess. McDonald discloses a roll with a slot there through that retains a rubber sheet material. Rollers that contain slots through their centers to hold a sheet material therein are old and well known in many arts, such as film reels, hair curlers, and take-up rolls for various web materials. This design is universally known, and even has its own subclass within the Patent Classification System, specifically Class 425 - Roll or Roller, Subclass 45 - With Internal Anchor for Annular Member, where the McDonald reference was found. US 43,692 to Hugunin (provided herewith) is also found in this subclass, and may be helpful in understanding the capabilities of McDonald. Specifically, slot E extends through roller A and holds a sheet of rubber B within the slot (column 1, lines 26-28). Given that the function of a slot through the center of a roller and a peripheral recess with a clip are used to accomplish the same exact end, to retain a sheet material, the rollers of LaCount and McDonald are considered analogous and substitution of the sheet material retaining means of LaCount for the sheet material retaining means of McDonald would have been obvious to one skilled in the art at the time of the invention.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Druan, Jr. whose telephone number is 703-308-4200. The examiner can normally be reached on M-F (8:30-6:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
tjd

November 17, 2003

  
BOYER ASHLEY  
PRIMARY EXAMINER